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PART 1

CHAPTER V

STATUTORY REQUIREMENTS FOR  
CRITICAL ACQUISITION POSITIONS

1. Introduction

a. In addition to the various types of positions addressed in part 1, chapters III and IV, CAPs have special statutory requirements. This chapter addresses the statutory requirements for CAPs and establishes policies and procedures for granting CAP assignment, tenure agreement, and tenure obligation waivers. For civilian recruitment purposes, requirements which differ from OPM qualification standards shall be used as quality ranking factors.

b. Certain senior CAPs (defined in part 1, chapter VIII) are centrally managed and assignment, tenure, rotation and waiver procedures differ from those contained in this chapter. Refer to part 1, chapter VIII for procedures applicable to certain senior CAPs.

c. Refer to part 1, chapter II for regulatory career field certification requirements.

2. CAP Statutory Requirements. There are three statutory requirements that apply to all CAPs. They are APC membership, a tenure requirement, and rotation review. Each is addressed separately below.

a. APC Membership. CAPs shall be filled by members of the APC with the following exceptions:

(1) A person serving in a CAP on 1 October 1992 may continue to serve in that CAP without becoming an APC member, or

(2) A CAP assignment waiver is granted.

(APC standards and membership procedures are contained in part 2, chapter IV.)

b. Tenure. All CAPs, except ACAT I PM and DPM positions, have a 3-year tenure requirement. (See part 1, chapter VIII for tenure requirements applicable to ACAT I PM and DPM positions.)

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c. Incumbent Rotation Review. CAPs shall be reviewed on a periodic basis for incumbent rotation. This review must take place when the incumbent has been in the CAP for 5 years. For persons assigned to their current CAP on or before 1 October 1991, the first rotation review shall occur in 1996. For persons assigned to CAPs after 1 October 1991, the first rotation review shall occur 5 years after assignment to the CAP. Any incumbent of a CAP not reassigned as a result of a rotation review shall be reviewed every year thereafter until reassigned.

3. Time Frames for Meeting CAP Requirements

a. Persons selected for CAPs on or after 1 October 1993 must be APC members (or obtain a CAP assignment waiver) and execute a tenure agreement (or obtain a tenure agreement waiver) prior to assuming the CAP.

b. Persons incumbering their current CAPs prior to 1 October 1992 are not required to become APC members or execute tenure agreements in order to continue to occupy their current position. APC membership, however, is strongly encouraged for these persons.

c. Persons who were assigned to their current CAP between 1 October 1992 and 1 October 1993 must become APC members to remain in their current CAP (or obtain a CAP assignment waiver). They do not, however, need to execute a tenure agreement.

4. Notification of Deficiencies. Prior to assignment, management shall ensure that the person is informed of any requirement deficiency and obtain the necessary waivers. Additionally, even if a waiver is approved, management should ensure that a career development plan is developed to provide the person the opportunity to meet the requirements.

5. Delegation of Authority

a. Commanders or directors of acquisition organizations, or their designee(s), are authorized to request CAP assignment waivers, tenure obligation waivers, and tenure agreement waivers. They shall ensure that tenure agreements are executed prior to assignment to a CAP and shall conduct rotation reviews of persons in CAPs within the time frames indicated in this chapter.

b. The ASN(RD&A) retains authority to grant CAP assignment waivers for flag and general officers and SES personnel.

c. The DACM retains authority to grant CAP assignment, tenure obligation, and tenure agreement waivers.

6. CAP Assignment Waiver Procedures. A CAP assignment waiver may be granted if the tentative selectee is not an APC member and does not become a member prior to actual assignment. A CAP assignment waiver is valid only for the particular CAP specified in the request. (Note: a CAP assignment waiver is different from an APC selection standard waiver which confers APC membership. For information on APC selection standard waivers, refer to part 2, chapter IV.)

a. CAP Assignment Waiver Criteria

(1) A CAP assignment waiver shall not be granted unless it is determined that qualified APC members are not available to fill the CAP. A CAP assignment waiver may be granted only if unusual circumstances justify the waiver or the person's qualifications obviate the need for meeting the APC membership requirement.

(2) A CAP assignment waiver must be obtained before a non-APC member is assigned to a CAP.

b. CAP Assignment Waiver Procedures

(1) The management official authorized in paragraph 5a shall forward a written request to the DACM for civilians. A CAP assignment waiver request for a Navy military officer shall be forwarded to the DACM via BUPERS (PERS-447) who shall certify that no qualified Navy military APC members are available to fill the CAP. Requests for Marine Corps military shall be forwarded to the DACM by the CMC, Code MMOA-3. (Note: requests for flag and general officers and SES personnel shall be forwarded to the ASN(RD&A) via the DACM.) The CAP assignment waiver request must identify the specific APC selection standard(s) which the person lacks, describe the unusual circumstances justifying the waiver or the reasons why the person's qualifications obviate the need for becoming an APC member, and describe the reasons why qualified APC members are not available to fill the CAP. Appendix E provides the format for requesting a CAP assignment waiver.

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(2) The DACM shall make a decision on the CAP assignment waiver request, normally within 2 weeks of receipt of the request, and forward that decision to the requesting management official.

(3) Approved CAP Assignment Waivers

(a) Civilians. The requesting official shall forward a copy of approved CAP assignment waivers to the servicing HRO for processing into DCPDS and filing in a permanent personnel record.

(b) Navy military personnel. The DACM shall forward approved CAP assignment waivers to BUPERS (PERS-447). BUPERS (PERS-447) shall ensure that the original is returned to the requester for retention in a permanent personnel record.

(c) Marine Corps military personnel. The DACM shall forward approved CAP assignment waivers to CMC, Code MMOA-3, for data entry into AWSOM and filing in a permanent personnel record.

(4) Disapproved CAP Assignment Waivers. Disapproved requests shall be returned to the requesting official and include a rationale for disapproval. If a CAP assignment waiver is not granted, the selectee may not be assigned to the CAP.

(5) The DACM shall retain a copy of CAP assignment waivers.

(6) Management should ensure that a career development plan is developed to provide the person for whom the CAP assignment waiver was granted the opportunity to meet APC requirements.

7. CAP Tenure Agreements

a. All CAPs have tenure requirements. A person may not be assigned to a CAP unless the person executes a tenure agreement to remain in that position for at least 3 years. The tenure obligation may be waived in accordance with paragraphs 8 and 9.

b. Persons incumbering CAPs on 1 October 1993 do not have to execute tenure agreements and therefore have no tenure obligation as long as they remain in the CAP incumbered on 1 October 1993.

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However, before such persons are assigned to any other CAP, they must execute a tenure agreement for the new position.

c. For civilians, the tenure agreement shall be addressed to the official identified in paragraph 5a, be in the format shown in appendix F, and be executed on or before the effective date of the assignment. The tenure agreement must identify the CAP to which assigned and contain a statement agreeing to remain in that position for 3 years subsequent to the starting date of the assignment. It is a command responsibility to ensure that a tenure agreement is signed prior to effecting the action to assign the employee to a CAP. The tenure agreement shall be forwarded to the servicing HRO for filing in the employee's personnel record.

d. For Navy military, the orders to a CAP contain a "greemain" to remain on active duty for the requisite period of time. Acceptance of orders containing a "greemain" constitutes execution of a tenure agreement.

e. For Marine Corps military, the tenure agreement shall be addressed to the official identified in paragraph 5a, be in the format shown in appendix F, and be executed on or before the effective date of the assignment. The tenure agreement must identify the CAP to which assigned and contain a statement agreeing to remain in that position for 3 years subsequent to the starting date of the assignment. The gaining command shall ensure that a tenure agreement is executed prior to the officer reporting for duty in a CAP. The tenure agreement shall be forwarded to CMC, Code MMOA-3 for filing in the officer's personnel record.

8. Waivers. There are two types of waivers associated with the tenure requirement. The first type is a tenure obligation waiver which permits a person to leave a CAP prior to completion of the tenure requirement. The second type of waiver is a tenure agreement waiver which permits a person to be assigned to a CAP without executing a tenure agreement. (See paragraphs 9, 10 and 11 for criteria and procedures for these two types of waivers.)

9. Tenure Obligation Waiver Criteria

a. A waiver of the tenure obligation may be made in the following circumstances:

- (1) Humanitarian reassignment, discharge, or retirement;
- (2) Relief of duties and reassignment in the interest of the DON; or
- (3) Promotion, where promotion in place is not allowable.

b. A tenure obligation waiver must be approved before a person leaves a CAP prior to the period of service required for the position. Exceptions to this requirement are as follow.

R) (1) Tenure obligation waivers are not required for persons who are reassigned when a program is canceled or merged with another program, when an organizational realignment results in reassignment to an analogous position or abolishes a CAP, or when a promotion occurs as a result of an accretion of duties. In these instances, when a person moves to a successor CAP, the original tenure agreement continues in effect as though the person continued to occupy the original position. If, in these instances, a person was exempt per paragraph 7b from executing a tenure agreement but is reassigned under this subparagraph to a successor CAP, that exemption continues so long as the person continues to occupy the successor CAP.

(2) A tenure obligation waiver is not required when a Service Selective Early Retirement Board identifies a person for early retirement.

(3) A tenure waiver is not required when an ACAT I DPM is reassigned to another CAP.

c. Only the DACM may approve tenure obligation waivers.

#### 10. Tenure Obligation Waiver Procedures

a. A tenure obligation waiver request shall be in writing, be signed by the official authorized in paragraph 5a, and forwarded to the DACM for approval. Appendix G provides the format for a tenure obligation waiver request.

b. The DACM shall make a decision, return the tenure obligation waiver to the requesting official, and retain a copy.

c. The requesting official shall take the following action on an approved tenure obligation waiver:

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- A) (2) When a person formally announces in writing his or her intent to retire before completing the full period of tenure obligation.

12. Rotation Review

a. The official authorized in paragraph 5a shall review the assignment of each person incumbering a CAP on the completion of 5 years of service in that position to determine if the DON, the incumbent, and/or organization would be better served by reassignment to another CAP. If the decision is made to allow the person to remain in the CAP, subsequent rotation reviews shall be made annually until the person is reassigned. Beginning 1 June 1996, anyone who has been in his or her same CAP for 5 years must be reviewed for rotation.

b. Officials authorized in paragraph 5a shall establish procedures to ensure that all required rotation reviews are carried out upon completion of 5 years of service. Rotation review procedures shall require that:

(1) A record of each civilian rotation review is made in DCPDS;

(2) A record of each Marine Corps military rotation review is made in AWSOM;

(3) A record of each Navy military rotation review is forwarded to the DACM with a copy to BUPERS (PERS-447);

(4) A record of rotation review results is made a part of the incumbent's official personnel record or military service record; and

(5) A summary report of the results of each rotation review be submitted to the DACM by 31 August annually, with the first report due 31 August 1996.

c. Rotation reviews may be documented on DD 2602 (see sample at appendix H) or other similar document which contains the same information.

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(1) For civilians, forward the original approved tenure obligation waiver to the servicing HRO for retention in a permanent personnel record;

(2) For Navy military, forward the original approved tenure obligation waiver to BUPERS (PERS-447) and retain a copy; and

(3) For Marine Corps military, forward the approved tenure obligation waiver to CMC, Code MMOA-3, for retention in an official personnel record.

d. If the tenure obligation waiver request is disapproved, the rationale for disapproval shall be documented on the request and returned to the requesting official. In this situation, management may not assign the person to another position until the completion of the tenure obligation.

#### 11. Tenure Agreement Waiver

a. All persons assigned to CAPs must execute a tenure agreement prior to assignment. Exceptions will be rare. Requests for waiving the requirement to execute the agreement may be made by officials authorized in paragraph 5a. The request must be in writing, state the reason for the exception, and be forwarded to the DACM for approval. Tenure agreement waivers will be granted on a case-by-case basis and only if unusual circumstances justify the exception.

b. Approved tenure agreement waivers shall be returned to the requesting official for processing as described in paragraph 10c.

c. A tenure agreement waiver does not obviate the need for management to request a tenure obligation waiver if the person does not remain in the position for the required period of service except that a tenure agreement waiver executed coincident with filling a position constitutes both a tenure agreement waiver and a tenure obligation waiver in the following instances:

(1) When a person is assigned to a short and/or hardship tour location, or

(A)

(A)